

AMENDED IN SENATE JULY 17, 2003

AMENDED IN SENATE JUNE 30, 2003

AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1384**

**Introduced by Assembly Member Maddox**

February 21, 2003

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An act to amend Section 1950.5 of the Civil Code, relating to tenancy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1384, as amended, Maddox. Tenancy: inspections.

Existing law regulates the amount of security a landlord may demand or receive pursuant to a rental agreement for residential property to be used as a dwelling. Existing law requires a landlord to notify the tenant in writing of the tenant's right to an initial inspection of the premises for the purpose of identifying deficiencies against which the security may be applied and providing the tenant an opportunity to cure.

This bill would provide that a landlord is not required to provide notification of a tenant's right to an initial inspection when the tenancy is terminated pursuant to specified provisions.

This bill would incorporate additional changes in Section 1950.5 of the Civil Code proposed by SB 90, to be operative if SB 90 and this bill become effective on or before January 1, 2004, and this bill is enacted last.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1950.5 of the Civil Code is amended to read:

1950.5. (a) This section applies to security for a rental agreement for residential property that is used as the dwelling of the tenant.

(b) As used in this section, “security” means any payment, fee, deposit or charge, including, but not limited to, any payment, fee, deposit, or charge, except as provided in Section 1950.6, that is imposed at the beginning of the tenancy to be used to reimburse the landlord for costs associated with processing a new tenant or that is imposed as an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant’s default in the payment of rent.

(2) The repair of damages to the premises, exclusive of ordinary wear and tear, caused by the tenant or by a guest or licensee of the tenant.

(3) The cleaning of the premises upon termination of the tenancy necessary to return the unit to the same level of cleanliness it was in at the inception of the tenancy. The amendments to this paragraph enacted by the act adding this sentence shall apply only to tenancies for which the tenant’s right to occupy begins after January 1, 2003.

(4) To remedy future defaults by the tenant in any obligation under the rental agreement to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear, if the security deposit is authorized to be applied thereto by the rental agreement.

(c) (1) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months’ rent, in the case of unfurnished residential property, and an amount equal to three months’ rent, in the case of furnished residential property, in addition to any rent for the first month paid on or before initial occupancy.

(2) This subdivision does not prohibit an advance payment of not less than six months’ rent if the term of the lease is six months or longer.

(3) This subdivision does not preclude a landlord and a tenant from entering into a mutual agreement for the landlord, at the request of the tenant and for a specified fee or charge, to make structural, decorative, furnishing, or other similar alterations, if the alterations are other than cleaning or repairing for which the landlord may charge the previous tenant as provided by subdivision (e).

(d) Any security shall be held by the landlord for the tenant who is party to the lease or agreement. The claim of a tenant to the security shall be prior to the claim of any creditor of the landlord.

(e) The landlord may claim of the security only those amounts as are reasonably necessary for the purposes specified in subdivision (b). The landlord may not assert a claim against the tenant or the security for damages to the premises or any defective conditions that preexisted the tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f) (1) Within a reasonable time after notification of either party's intention to terminate the tenancy, or before the end of the lease term, the landlord shall notify the tenant in writing of his or her option to request an initial inspection and of his or her right to be present at the inspection. The requirements of this subdivision do not apply when the tenancy is terminated pursuant to subdivision (2), (3), or (4) of Section 1161 of the Code of Civil Procedure. At a reasonable time, but no earlier than two weeks before the termination or the end of lease date, the landlord, or an agent of the landlord, shall, upon the request of the tenant, make an initial inspection of the premises prior to any final inspection the landlord makes after the tenant has vacated the premises. The purpose of the initial inspection shall be to allow the tenant an opportunity to remedy identified deficiencies, in a manner consistent with the rights and obligations of the parties under the rental agreement, in order to avoid deductions from the security. If a tenant chooses not to request an initial inspection, the duties of the landlord under this subdivision are discharged. If an inspection is requested, the parties shall attempt to schedule the inspection at a mutually acceptable date and time. The landlord shall give at least 48 hours prior written notice of the date and time

1 of the inspection if either a mutual time is agreed upon, or if a  
2 mutually agreed time cannot be scheduled but the tenant still  
3 wishes an inspection. The tenant and landlord may agree to forgo  
4 the 48-hour prior written notice by both signing a written waiver.  
5 The landlord shall proceed with the inspection whether the tenant  
6 is present or not, unless the tenant previously withdrew his or her  
7 request for the inspection.

8 (2) Based on the inspection, the landlord shall give the tenant  
9 an itemized statement specifying repairs or cleaning that are  
10 proposed to be the basis of any deductions from the security the  
11 landlord intends to make pursuant to paragraphs (1) to (4),  
12 inclusive, of subdivision (b). This statement shall also include the  
13 texts of subdivision (d) and paragraphs (1) to (4), inclusive, of  
14 subdivision (b). The statement shall be given to the tenant, if the  
15 tenant is present for the inspection, or shall be left inside the  
16 premises.

17 (3) The tenant shall have the opportunity during the period  
18 following the initial inspection until termination of the tenancy to  
19 remedy identified deficiencies, in a manner consistent with the  
20 rights and obligations of the parties under the rental agreement, in  
21 order to avoid deductions from the security.

22 (4) Nothing in this subdivision shall prevent a landlord from  
23 using the security for deductions itemized in the statement  
24 provided for in paragraph (2) that were not cured by the tenant so  
25 long as the deductions are for damages authorized by this section.

26 (5) Nothing in this subdivision shall prevent a landlord from  
27 using the security for any purpose specified in paragraphs (1) to  
28 (4), inclusive, of subdivision (b) that occurs between completion  
29 of the initial inspection and termination of the tenancy or was not  
30 identified during the initial inspection due to the presence of a  
31 tenant's possessions.

32 (g) Within three weeks after the tenant has vacated the  
33 premises, the landlord shall furnish the tenant, by personal  
34 delivery or by first-class mail, postage prepaid, a copy of an  
35 itemized statement indicating the basis for, and the amount of, any  
36 security received and the disposition of the security and shall  
37 return any remaining portion of the security to the tenant.

38 (h) Upon termination of the landlord's interest in the premises,  
39 whether by sale, assignment, death, appointment of receiver or  
40 otherwise, the landlord or the landlord's agent shall, within a

reasonable time, do one of the following acts, either of which shall relieve the landlord of further liability with respect to the security held:

(1) Transfer the portion of the security remaining after any lawful deductions made under subdivision (e) to the landlord's successor in interest. The landlord shall thereafter notify the tenant by personal delivery or by first-class mail, postage prepaid, of the transfer, of any claims made against the security, of the amount of the security deposited, and of the names of the successors in interest, their address, and their telephone number. If the notice to the tenant is made by personal delivery, the tenant shall acknowledge receipt of the notice and sign his or her name on the landlord's copy of the notice.

(2) Return the portion of the security remaining after any lawful deductions made under subdivision (e) to the tenant, together with an accounting as provided in subdivision (g).

(i) Prior to the voluntary transfer of a landlord's interest in the premises, the landlord shall deliver to the landlord's successor in interest a written statement indicating the following:

(1) The security remaining after any lawful deductions are made.

(2) An itemization of any lawful deductions from any security received.

(3) His or her election under paragraph (1) or (2) of subdivision (h).

This subdivision does not affect the validity of title to the real property transferred in violation of this subdivision.

(j) In the event of noncompliance with subdivision (h), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (g). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (h), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (h) or provides the tenant with an accounting as provided in subdivision (g).

This subdivision does not preclude a successor in interest from recovering from the tenant compensatory damages that are in

1 excess of the security received from the landlord previously paid  
2 by the tenant to the landlord.

3 Notwithstanding this subdivision, if, upon inquiry and  
4 reasonable investigation, a landlord's successor in interest has a  
5 good faith belief that the lawfully remaining security deposit is  
6 transferred to him or her or returned to the tenant pursuant to  
7 subdivision (h), he or she is not liable for damages as provided in  
8 subdivision (l), or any security not transferred pursuant to  
9 subdivision (h).

10 (k) Upon receipt of any portion of the security under paragraph  
11 (1) of subdivision (h), the landlord's successors in interest shall  
12 have all of the rights and obligations of a landlord holding the  
13 security with respect to the security.

14 (l) The bad faith claim or retention by a landlord or the  
15 landlord's successors in interest of the security or any portion  
16 thereof in violation of this section, or the bad faith demand of  
17 replacement security in violation of subdivision (j), may subject  
18 the landlord or the landlord's successors in interest to statutory  
19 damages of up to twice the amount of the security, in addition to  
20 actual damages. The court may award damages for bad faith  
21 whenever the facts warrant such an award, regardless of whether  
22 the injured party has specifically requested relief. In any action  
23 under this section, the landlord or the landlord's successors in  
24 interest shall have the burden of proof as to the reasonableness of  
25 the amounts claimed or the authority pursuant to this section to  
26 demand additional security deposits.

27 (m) No lease or rental agreement may contain any provision  
28 characterizing any security as "nonrefundable."

29 (n) Any action under this section may be maintained in small  
30 claims court if the damages claimed, whether actual or statutory  
31 or both, are within the jurisdictional amount allowed by Section  
32 116.220 of the Code of Civil Procedure.

33 (o) Proof of the existence of and the amount of a security  
34 deposit may be established by any credible evidence, including,  
35 but not limited to, a canceled check, a receipt, a lease indicating the  
36 requirement of a deposit as well as the amount, prior consistent  
37 statements or actions of the landlord or tenant, or a statement under  
38 penalty of perjury that satisfies the credibility requirements set  
39 forth in Section 780 of the Evidence Code.



(p) The amendments to this section made during the 1985 portion of the 1985–86 Regular Session of the Legislature that are set forth in subdivision (e) are declaratory of existing law.

(q) The amendments to this section made during the 2003 portion of the 2003–04 Regular Session of the Legislature that are set forth in paragraph (1) of subdivision (f) are declaratory of existing law.

~~SEC. 1.5.—Section 1950.5 of the Civil Code is amended to read:~~

~~1950.5. (a) This section applies to security for a rental agreement for residential property that is used as the dwelling of the tenant.~~

~~(b) As used in this section, “security” means any payment, fee, deposit or charge, including, but not limited to, any payment, fee, deposit, or charge, except as provided in Section 1950.6, that is imposed at the beginning of the tenancy to be used to reimburse the landlord for costs associated with processing a new tenant or that is imposed as an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:~~

~~(1) The compensation of a landlord for a tenant’s default in the payment of rent.~~

~~(2) The repair of damages to the premises, exclusive of ordinary wear and tear, caused by the tenant or by a guest or licensee of the tenant.~~

~~(3) The cleaning of the premises upon termination of the tenancy necessary to return the unit to the same level of cleanliness it was in at the inception of the tenancy. The amendments to this paragraph enacted by the act adding this sentence shall apply only to tenancies for which the tenant’s right to occupy begins after January 1, 2003.~~

~~(4) To remedy future defaults by the tenant in any obligation under the rental agreement to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear, if the security deposit is authorized to be applied thereto by the rental agreement.~~

~~(e) (1) A landlord may not demand or receive security, however denominated, in an amount or value in excess of an amount equal to two months’ rent, in the case of unfurnished residential property, and an amount equal to three months’ rent, in~~



1 the case of furnished residential property, in addition to any rent  
2 for the first month paid on or before initial occupancy.

3 (2) This subdivision does not prohibit an advance payment of  
4 not less than six months' rent if the term of the lease is six months  
5 or longer.

6 (3) This subdivision does not preclude a landlord and a tenant  
7 from entering into a mutual agreement for the landlord, at the  
8 request of the tenant and for a specified fee or charge, to make  
9 structural, decorative, furnishing, or other similar alterations, if  
10 the alterations are other than cleaning or repairing for which the  
11 landlord may charge the previous tenant as provided by  
12 subdivision (e).

13 (d) Any security shall be held by the landlord for the tenant who  
14 is party to the lease or agreement. The claim of a tenant to the  
15 security shall be prior to the claim of any creditor of the landlord.

16 (e) The landlord may claim of the security only those amounts  
17 as are reasonably necessary for the purposes specified in  
18 subdivision (b). The landlord may not assert a claim against the  
19 tenant or the security for damages to the premises or any defective  
20 conditions that preexisted the tenancy, for ordinary wear and tear  
21 or the effects thereof, whether the wear and tear preexisted the  
22 tenancy or occurred during the tenancy, or for the cumulative  
23 effects of ordinary wear and tear occurring during any one or more  
24 tenancies.

25 (f) (1) Within a reasonable time after notification of either  
26 party's intention to terminate the tenancy, or before the end of the  
27 lease term, the landlord shall notify the tenant in writing of his or  
28 her option to request an initial inspection and of his or her right to  
29 be present at the inspection. The requirements of this subdivision  
30 do not apply when the tenancy is terminated pursuant to  
31 subdivision (2), (3), or (4) of Section 1161 of the Code of Civil  
32 Procedure. At a reasonable time, but no earlier than two weeks  
33 before the termination or the end of lease date, the landlord, or an  
34 agent of the landlord, shall, upon the request of the tenant, make  
35 an initial inspection of the premises prior to any final inspection  
36 the landlord makes after the tenant has vacated the premises. The  
37 purpose of the initial inspection shall be to allow the tenant an  
38 opportunity to remedy identified deficiencies, in a manner  
39 consistent with the rights and obligations of the parties under the  
40 rental agreement, in order to avoid deductions from the security.



1 ~~If a tenant chooses not to request an initial inspection, the duties~~  
2 ~~of the landlord under this subdivision are discharged. If an~~  
3 ~~inspection is requested, the parties shall attempt to schedule the~~  
4 ~~inspection at a mutually acceptable date and time. The landlord~~  
5 ~~shall give at least 48 hours' prior written notice of the date and time~~  
6 ~~of the inspection if either a mutual time is agreed upon, or if a~~  
7 ~~mutually agreed time cannot be scheduled but the tenant still~~  
8 ~~wishes an inspection. The tenant and landlord may agree to forgo~~  
9 ~~the 48-hour prior written notice by both signing a written waiver.~~  
10 ~~The landlord shall proceed with the inspection whether the tenant~~  
11 ~~is present or not, unless the tenant previously withdrew his or her~~  
12 ~~request for the inspection.~~

13 ~~(2) Based on the inspection, the landlord shall give the tenant~~  
14 ~~an itemized statement specifying repairs or cleaning that are~~  
15 ~~proposed to be the basis of any deductions from the security the~~  
16 ~~landlord intends to make pursuant to paragraphs (1) to (4),~~  
17 ~~inclusive, of subdivision (b). This statement shall also include the~~  
18 ~~texts of subdivision (d) and paragraphs (1) to (4), inclusive, of~~  
19 ~~subdivision (b). The statement shall be given to the tenant, if the~~  
20 ~~tenant is present for the inspection, or shall be left inside the~~  
21 ~~premises.~~

22 ~~(3) The tenant shall have the opportunity during the period~~  
23 ~~following the initial inspection until termination of the tenancy to~~  
24 ~~remedy identified deficiencies, in a manner consistent with the~~  
25 ~~rights and obligations of the parties under the rental agreement, in~~  
26 ~~order to avoid deductions from the security.~~

27 ~~(4) Nothing in this subdivision shall prevent a landlord from~~  
28 ~~using the security for deductions itemized in the statement~~  
29 ~~provided for in paragraph (2) that were not cured by the tenant so~~  
30 ~~long as the deductions are for damages authorized by this section.~~

31 ~~(5) Nothing in this subdivision shall prevent a landlord from~~  
32 ~~using the security for any purpose specified in paragraphs (1) to~~  
33 ~~(4), inclusive, of subdivision (b) that occurs between completion~~  
34 ~~of the initial inspection and termination of the tenancy or was not~~  
35 ~~identified during the initial inspection due to the presence of a~~  
36 ~~tenant's possessions.~~

37 ~~(g) (1) Within 21 calendar days after the tenant has vacated the~~  
38 ~~premises, the landlord shall furnish the tenant, by personal~~  
39 ~~delivery or by first-class mail, postage prepaid, a copy of an~~  
40 ~~itemized statement indicating the basis for, and the amount of, any~~

~~security received and the disposition of the security and shall return any remaining portion of the security to the tenant. The landlord shall include a receipt for any labor or material the landlord has paid for and has deducted from the security pursuant to subdivision (c). If a receipt does not include the name, address, and telephone number of the person or entity that provided the labor or material, the landlord shall include that information in the statement.~~

~~(2) Along with the itemized statement, the landlord shall also include copies of documents showing charges incurred and deducted by the landlord to repair or clean the premises, as follows:~~

~~(A) If the landlord or landlord's employee did the work, the statement or document shall itemize the work performed. The description of each item shall include the time spent and the hourly rate charged.~~

~~(B) If the landlord or landlord's employee did not do the work, the landlord shall provide the tenant a copy of the bill, invoice, or receipt supplied by the person or entity performing the services. The document shall provide the tenant with the name, address, and telephone number of the person or entity, if the copy does not include that information.~~

~~(C) If a deduction is made for materials or supplies, the landlord shall provide a copy of the invoice or receipt. If a particular material or supply item is purchased by the landlord on an ongoing basis, the landlord may instead provide a copy of an invoice or receipt indicating the purchase of the item that reasonably documents the cost of the item used in the repair or cleaning of the unit.~~

~~(3) If a repair to be done by the landlord or the landlord's employee cannot reasonably be completed within 21 days after the tenant has vacated the premises, or if the documents from a person or entity providing services, materials, or supplies are not in the landlord's possession within 21 days after the tenant has vacated the premises, the landlord may deduct the amount of a good faith estimate of the charges that will be incurred and provide that estimate with the statement. If the reason for the estimate is because the documents from a person or entity providing services, materials, or supplies are not in the landlord's possession, the statement shall include the name, address, and telephone number~~

1 of the person or entity. Within seven days of completing the repair  
2 or receiving the documentation, the landlord shall complete the  
3 requirements in paragraphs (1) and (2) in the manner specified.

4 (4) The landlord need not comply with paragraphs (2) or (3) if  
5 either of the following apply:

6 (A) The deductions for repairs and cleaning together do not  
7 exceed one hundred twenty-five dollars (\$125).

8 (B) The tenant waived the rights specified in paragraphs (2)  
9 and (3). The waiver shall only be effective if it is signed by the  
10 tenant after a notice to terminate a tenancy under Section 1946 or  
11 1946.1 has been given, a notice under Section 1161 of the Code of  
12 Civil Procedure has been given, or within 60 days prior to the  
13 expiration of a fixed-term lease. The waiver shall substantially  
14 include the text of paragraph (2).

15 (5) Notwithstanding paragraph (4), the landlord shall comply  
16 with paragraphs (2) and (3) upon request by the tenant within 14  
17 days after receiving the statement specified in paragraph (1). The  
18 landlord shall comply within 14 days after receiving the request.

19 (h) Upon termination of the landlord's interest in the premises,  
20 whether by sale, assignment, death, appointment of receiver or  
21 otherwise, the landlord or the landlord's agent shall, within a  
22 reasonable time, do one of the following acts, either of which shall  
23 relieve the landlord of further liability with respect to the security  
24 held:

25 (1) Transfer the portion of the security remaining after any  
26 lawful deductions made under subdivision (e) to the landlord's  
27 successor in interest. The landlord shall thereafter notify the tenant  
28 by personal delivery or by first-class mail, postage prepaid, of the  
29 transfer, of any claims made against the security, of the amount of  
30 the security deposited, and of the names of the successors in  
31 interest, their address, and their telephone number. If the notice to  
32 the tenant is made by personal delivery, the tenant shall  
33 acknowledge receipt of the notice and sign his or her name on the  
34 landlord's copy of the notice.

35 (2) Return the portion of the security remaining after any  
36 lawful deductions made under subdivision (e) to the tenant,  
37 together with an accounting as provided in subdivision (g).

38 (i) Prior to the voluntary transfer of a landlord's interest in the  
39 premises, the landlord shall deliver to the landlord's successor in  
40 interest a written statement indicating the following:

~~(1) The security remaining after any lawful deductions are made.~~

~~(2) An itemization of any lawful deductions from any security received.~~

~~(3) His or her election under paragraph (1) or (2) of subdivision (h).~~

~~This subdivision does not affect the validity of title to the real property transferred in violation of this subdivision.~~

~~(j) In the event of noncompliance with subdivision (h), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (g). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (h), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (h) or provides the tenant with an accounting as provided in subdivision (g).~~

~~This subdivision does not preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.~~

~~Notwithstanding this subdivision, if, upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (h), he or she is not liable for damages as provided in subdivision (l), or any security not transferred pursuant to subdivision (h).~~

~~(k) Upon receipt of any portion of the security under paragraph (1) of subdivision (h), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding the security with respect to the security.~~

~~(l) The bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof in violation of this section, or the bad faith demand of replacement security in violation of subdivision (j), may subject the landlord or the landlord's successors in interest to statutory damages of up to twice the amount of the security, in addition to~~

~~1 actual damages. The court may award damages for bad faith  
2 whenever the facts warrant such an award, regardless of whether  
3 the injured party has specifically requested relief. In any action  
4 under this section, the landlord or the landlord's successors in  
5 interest shall have the burden of proof as to the reasonableness of  
6 the amounts claimed or the authority pursuant to this section to  
7 demand additional security deposits.~~

~~8 (m) No lease or rental agreement may contain any provision  
9 characterizing any security as "nonrefundable."~~

~~10 (n) Any action under this section may be maintained in small  
11 claims court if the damages claimed, whether actual or statutory  
12 or both, are within the jurisdictional amount allowed by Section  
13 116.220 of the Code of Civil Procedure.~~

~~14 (o) Proof of the existence of and the amount of a security  
15 deposit may be established by any credible evidence, including,  
16 but not limited to, a canceled check, a receipt, a lease indicating the  
17 requirement of a deposit as well as the amount, prior consistent  
18 statements or actions of the landlord or tenant, or a statement under  
19 penalty of perjury that satisfies the credibility requirements set  
20 forth in Section 780 of the Evidence Code.~~

~~21 (p) The amendments to this section made during the 1985  
22 portion of the 1985-86 Regular Session of the Legislature that are  
23 set forth in subdivision (e) are declaratory of existing law.~~

~~24 (q) The amendments to this section made during the 2003  
25 portion of the 2003-04 Regular Session of the Legislature that are  
26 set forth in paragraph (1) of subdivision (f) are declaratory of  
27 existing law.~~

*SEC. 1.5. Section 1950.5 of the Civil Code is amended to  
28 read:*

1950.5. (a) This section applies to security for a rental  
30 agreement for residential property that is used as the dwelling of  
31 the tenant.

(b) As used in this section, "security" means any payment, fee,  
33 deposit or charge, including, but not limited to, any payment, fee,  
34 deposit, or charge, except as provided in Section 1950.6, that is  
35 imposed at the beginning of the tenancy to be used to reimburse  
36 the landlord for costs associated with processing a new tenant or  
37 that is imposed as an advance payment of rent, used or to be used  
38 for any purpose, including, but not limited to, any of the following:  
39

1 (1) The compensation of a landlord for a tenant's default in the  
2 payment of rent.

3 (2) The repair of damages to the premises, exclusive of  
4 ordinary wear and tear, caused by the tenant or by a guest or  
5 licensee of the tenant.

6 (3) The cleaning of the premises upon termination of the  
7 tenancy necessary to return the unit to the same level of cleanliness  
8 it was in at the inception of the tenancy. The amendments to this  
9 paragraph enacted by the act adding this sentence shall apply only  
10 to tenancies for which the tenant's right to occupy begins after  
11 January 1, 2003.

12 (4) To remedy future defaults by the tenant in any obligation  
13 under the rental agreement to restore, replace, or return personal  
14 property or appurtenances, exclusive of ordinary wear and tear, if  
15 the security deposit is authorized to be applied thereto by the rental  
16 agreement.

17 (c) A landlord may not demand or receive security, however  
18 denominated, in an amount or value in excess of an amount equal  
19 to two months' rent, in the case of unfurnished residential  
20 property, and an amount equal to three months' rent, in the case of  
21 furnished residential property, in addition to any rent for the first  
22 month paid on or before initial occupancy.

23 This subdivision does not prohibit an advance payment of not  
24 less than six months' rent if the term of the lease is six months or  
25 longer.

26 This subdivision does not preclude a landlord and a tenant from  
27 entering into a mutual agreement for the landlord, at the request of  
28 the tenant and for a specified fee or charge, to make structural,  
29 decorative, furnishing, or other similar alterations, if the  
30 alterations are other than cleaning or repairing for which the  
31 landlord may charge the previous tenant as provided by  
32 subdivision (e).

33 (d) Any security shall be held by the landlord for the tenant who  
34 is party to the lease or agreement. The claim of a tenant to the  
35 security shall be prior to the claim of any creditor of the landlord.

36 (e) The landlord may claim of the security only those amounts  
37 as are reasonably necessary for the purposes specified in  
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39 tenant or the security for damages to the premises or any defective  
40 conditions that preexisted the tenancy, for ordinary wear and tear

1 or the effects thereof, whether the wear and tear preexisted the  
2 tenancy or occurred during the tenancy, or for the cumulative  
3 effects of ordinary wear and tear occurring during any one or more  
4 tenancies.

5 (f) (1) Within a reasonable time after notification of either  
6 party's intention to terminate the tenancy, or before the end of the  
7 lease term, the landlord shall notify the tenant in writing of his or  
8 her option to request an initial inspection and of his or her right to  
9 be present at the inspection. *The requirements of this subdivision*  
10 *do not apply when the tenancy is terminated pursuant to*  
11 *subdivision (2), (3), or (4) of Section 1161 of the Code of Civil*  
12 *Procedure.* At a reasonable time, but no earlier than two weeks  
13 before the termination or the end of lease date, the landlord, or an  
14 agent of the landlord, shall, upon the request of the tenant, make  
15 an initial inspection of the premises prior to any final inspection  
16 the landlord makes after the tenant has vacated the premises. The  
17 purpose of the initial inspection shall be to allow the tenant an  
18 opportunity to remedy identified deficiencies, in a manner  
19 consistent with the rights and obligations of the parties under the  
20 rental agreement, in order to avoid deductions from the security.  
21 If a tenant chooses not to request an initial inspection, the duties  
22 of the landlord under this subdivision are discharged. If an  
23 inspection is requested, the parties shall attempt to schedule the  
24 inspection at a mutually acceptable date and time. The landlord  
25 shall give at least ~~48-hour~~ *hours* prior written notice of the date  
26 and time of the inspection if either a mutual time is agreed upon,  
27 or if a mutually agreed time cannot be scheduled but the tenant still  
28 wishes an inspection. The tenant and landlord may agree to forgo  
29 the 48-hour prior written notice by both signing a written waiver.  
30 The landlord shall proceed with the inspection whether the tenant  
31 is present or not, unless the tenant previously withdrew his or her  
32 request for the inspection.

33 (2) Based on the inspection, the landlord shall give the tenant  
34 an itemized statement specifying repairs or cleaning that are  
35 proposed to be the basis of any deductions from the security the  
36 landlord intends to make pursuant to paragraphs (1) to (4),  
37 inclusive of subdivision (b). This statement shall also include the  
38 texts of subdivision (d) and paragraphs (1) to (4), inclusive, of  
39 subdivision (b). The statement shall be given to the tenant, if the



1 tenant is present for the inspection, or shall be left inside the  
2 premises.

3 (3) The tenant shall have the opportunity during the period  
4 following the initial inspection until termination of the tenancy to  
5 remedy identified deficiencies, in a manner consistent with the  
6 rights and obligations of the parties under the rental agreement, in  
7 order to avoid deductions from the security.

8 (4) Nothing in this subdivision shall prevent a landlord from  
9 using the security for deductions itemized in the statement  
10 provided for in paragraph (2) that were not cured by the tenant so  
11 long as the deductions are for damages authorized by this section.

12 (5) Nothing in this subdivision shall prevent a landlord from  
13 using the security for any purpose specified in paragraphs (1) to  
14 (4), inclusive, of subdivision (b) that occurs between completion  
15 of the initial inspection and termination of the tenancy or was not  
16 identified during the initial inspection due to the presence of a  
17 tenant's possessions.

18 (g) ~~Within three weeks—~~*(1) No later than 21 calendar days*  
19 *after the tenant has vacated the premises, but not earlier than 30*  
20 *calendar days prior to the time that either the landlord or the*  
21 *tenant provides a notice to terminate the tenancy under Section*  
22 *1946 or 1946.1, Section 1161 of the Code of Civil Procedure, or*  
23 *not earlier than 90 calendar days prior to the expiration of a*  
24 *fixed-term lease, the landlord shall furnish the tenant, by personal*  
25 *delivery or by first-class mail, postage prepaid, a copy of an*  
26 *itemized statement indicating the basis for, and the amount of, any*  
27 *security received and the disposition of the security and shall*  
28 *return any remaining portion of the security to the tenant.*

29 *(2) Along with the itemized statement, the landlord shall also*  
30 *include copies of documents showing charges incurred and*  
31 *deducted by the landlord to repair or clean the premises, as*  
32 *follows:*

33 *(A) If the landlord or landlord's employee did the work, the*  
34 *itemized statement shall reasonably describe the work performed.*  
35 *The itemized statement shall include the time spent and the*  
36 *reasonable hourly rate charged.*

37 *(B) If the landlord or landlord's employee did not do the work,*  
38 *the landlord shall provide the tenant a copy of the bill, invoice, or*  
39 *receipt supplied by the person or entity performing the work. The*  
40 *itemized statement shall provide the tenant with the name, address,*

1 and telephone number of the person or entity, if the bill, invoice,  
2 or receipt does not include that information.

3 (C) If a deduction is made for materials or supplies, the  
4 landlord shall provide a copy of the bill, invoice, or receipt. If a  
5 particular material or supply item is purchased by the landlord on  
6 an ongoing basis, the landlord may document the cost of the item  
7 by providing a copy of a bill, invoice, receipt, vendor price list, or  
8 other vendor document that reasonably documents the cost of the  
9 item used in the repair or cleaning of the unit.

10 (3) If a repair to be done by the landlord or the landlord's  
11 employee cannot reasonably be completed within 21 calendar  
12 days after the tenant has vacated the premises, or if the documents  
13 from a person or entity providing services, materials, or supplies  
14 are not in the landlord's possession within 21 calendar days after  
15 the tenant has vacated the premises, the landlord may deduct the  
16 amount of a good faith estimate of the charges that will be incurred  
17 and provide that estimate with the itemized statement. If the reason  
18 for the estimate is because the documents from a person or entity  
19 providing services, materials, or supplies are not in the landlord's  
20 possession, the itemized statement shall include the name, address,  
21 and telephone number of the person or entity. Within 14 calendar  
22 days of completing the repair or receiving the documentation, the  
23 landlord shall complete the requirements in paragraphs (1) and  
24 (2) in the manner specified.

25 (4) The landlord need not comply with paragraph (2) or (3) if  
26 either of the following apply:

27 (A) The deductions for repairs and cleaning together do not  
28 exceed one hundred twenty-five dollars.

29 (B) The tenant waived the rights specified in paragraphs (2)  
30 and (3). The waiver shall only be effective if it is signed by the  
31 tenant at the same time or after a notice to terminate a tenancy  
32 under Section 1946 or 1946.1 has been given, a notice under  
33 Section 1161 of the Code of Civil Procedure has been given, or no  
34 earlier than 90 calendar days prior to the expiration of a  
35 fixed-term lease. The waiver shall substantially include the text of  
36 paragraph (2).

37 (5) Notwithstanding paragraph (4), the landlord shall comply  
38 with paragraphs (2) and (3) when a tenant makes a request for  
39 documentation within 14 calendar days after receiving the  
40 itemized statement specified in paragraph (1). The landlord shall

1 *comply within 14 calendar days after receiving the request from the*  
2 *tenant.*

3 (6) *Any mailings to the tenant pursuant to this subdivision shall*  
4 *be sent to the address provided by the tenant. If the tenant does not*  
5 *provide an address, mailings pursuant to this subdivision shall be*  
6 *sent to the unit that has been vacated.*

7 (h) Upon termination of the landlord's interest in the premises,  
8 whether by sale, assignment, death, appointment of receiver or  
9 otherwise, the landlord or the landlord's agent shall, within a  
10 reasonable time, do one of the following acts, either of which shall  
11 relieve the landlord of further liability with respect to the security  
12 held:

13 (1) Transfer the portion of the security remaining after any  
14 lawful deductions made under subdivision (e) to the landlord's  
15 successor in interest. The landlord shall thereafter notify the tenant  
16 by personal delivery or by first-class mail, postage prepaid, of the  
17 transfer, of any claims made against the security, of the amount of  
18 the security deposited, and of the names of the successors in  
19 interest, their address, and their telephone number. If the notice to  
20 the tenant is made by personal delivery, the tenant shall  
21 acknowledge receipt of the notice and sign his or her name on the  
22 landlord's copy of the notice.

23 (2) Return the portion of the security remaining after any  
24 lawful deductions made under subdivision (e) to the tenant,  
25 together with an accounting as provided in subdivision (g).

26 (i) Prior to the voluntary transfer of a landlord's interest in the  
27 premises, the landlord shall deliver to the landlord's successor in  
28 interest a written statement indicating the following:

29 (1) The security remaining after any lawful deductions are  
30 made.

31 (2) An itemization of any lawful deductions from any security  
32 received.

33 (3) His or her election under paragraph (1) or (2) of subdivision  
34 (h).

35 This subdivision does not affect the validity of title to the real  
36 property transferred in violation of this subdivision.

37 (j) In the event of noncompliance with subdivision (h), the  
38 landlord's successors in interest shall be jointly and severally  
39 liable with the landlord for repayment of the security, or that  
40 portion thereof to which the tenant is entitled, when and as

provided in subdivisions (e) and (g). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (h), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (h) or provides the tenant with an accounting as provided in subdivision (g).

This subdivision does not preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.

Notwithstanding this subdivision, if, upon inquiry and reasonable investigation, a landlord's successor in interest has a good faith belief that the lawfully remaining security deposit is transferred to him or her or returned to the tenant pursuant to subdivision (h), he or she is not liable for damages as provided in subdivision (l), or any security not transferred pursuant to subdivision (h).

(k) Upon receipt of any portion of the security under paragraph (1) of subdivision (h), the landlord's successors in interest shall have all of the rights and obligations of a landlord holding the security with respect to the security.

(l) The bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof in violation of this section, or the bad faith demand of replacement security in violation of subdivision (j), may subject the landlord or the landlord's successors in interest to statutory damages of up to twice the amount of the security, in addition to actual damages. The court may award damages for bad faith whenever the facts warrant such an award, regardless of whether the injured party has specifically requested relief. In any action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(m) No lease or rental agreement may contain any provision characterizing any security as "nonrefundable."

(n) Any action under this section may be maintained in small claims court if the damages claimed, whether actual or statutory

1 or both, are within the jurisdictional amount allowed by Section  
2 116.220 of the Code of Civil Procedure.

3 (o) Proof of the existence of and the amount of a security  
4 deposit may be established by any credible evidence, including,  
5 but not limited to, a canceled check, a receipt, a lease indicating the  
6 requirement of a deposit as well as the amount, prior consistent  
7 statements or actions of the landlord or tenant, or a statement under  
8 penalty of perjury that satisfies the credibility requirements set  
9 forth in Section 780 of the Evidence Code.

10 (p) The amendments to this section made during the 1985  
11 portion of the 1985–86 Regular Session of the Legislature that are  
12 set forth in subdivision (e) are declaratory of existing law.

13 (q) *The amendments to this section made during the 2003*  
14 *portion of the 2003–04 Regular Session of the Legislature that are*  
15 *set forth in paragraph (1) of subdivision (f) are declaratory of*  
16 *existing law.*

17 SEC. 2. Section 1.5 of this bill incorporates amendments to  
18 Section 1950.5 of the Civil Code proposed by both this bill and SB  
19 90. It shall only become operative if (1) both bills are enacted and  
20 become effective on or before January 1, 2004, (2) each bill  
21 amends Section 1950.5 of the Civil Code, and (3) this bill is  
22 enacted after SB 90, in which case Section 1 of this bill shall not  
23 become operative.

